

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION**

BLUE SPIKE, LLC,

Plaintiff,

V.

TEXAS INSTRUMENTS, INC., *et al.*,

Defendants.

Civil Action No. 6:12-CV-499-LED

JURY TRIAL DEMANDED

**PLAINTIFF’S REPLY IN RESPONSE TO
DEFENDANT SMRTV’S COUNTERCLAIMS**

Plaintiff Blue Spike, LLC files this Reply to the Counterclaims of SMRTV, Inc. (“SMRTV” or “Defendant”) (Dkt. No. 333) as follows. All allegations not expressly admitted or responded to by Plaintiff are denied.

THE PARTIES

75. Plaintiff admits the allegations of Paragraph 75, upon information and belief.

76. Plaintiff admits the allegations of Paragraph 76.

JURISDICTION AND VENUE

77. Plaintiff admits that Defendant purports to bring a declaratory judgment action.

78. Plaintiff admits the allegations of Paragraph 78.

79. Plaintiff admits the allegations of Paragraph 79.

80. Plaintiff admits the allegations of Paragraph 80.

FIRST COUNTERCLAIM: DECLARATORY JUDGMENT OF NON-INFRINGEMENT OF THE '175 PATENT

81. Plaintiff repeats and incorporates by reference its responses to the allegations contained in Paragraphs 74 through 80 above.

82. Plaintiff admits the allegations of Paragraph 82.

83. Plaintiff denies the allegations of Paragraph 83.

84. To the extent they are allegations and not prayers for relief, Plaintiff denies the allegations of Paragraph 84.

**SECOND COUNTERCLAIM: DECLARATORY JUDGMENT OF
INVALIDITY OF THE '175 PATENT**

85. Plaintiff repeats and incorporates by reference its responses to the allegations contained in Paragraphs 74 through 80 above.

86. Plaintiff admits the allegations of Paragraph 86.

87. Plaintiff denies the allegations of Paragraph 87.

88. To the extent they are allegations and not prayers for relief, Plaintiff denies the allegations of Paragraph 88.

**THIRD COUNTERCLAIM: DECLARATORY JUDGMENT OF
NON-INFRINGEMENT OF THE '494 PATENT**

89. Plaintiff repeats and incorporates by reference its responses to the allegations contained in Paragraphs 74 through 80 above.

90. Plaintiff admits the allegations of Paragraph 90.

91. Plaintiff denies the allegations of Paragraph 91.

92. To the extent they are allegations and not prayers for relief, Plaintiff denies the allegations of Paragraph 92.

**FOURTH COUNTERCLAIM: DECLARATORY JUDGMENT OF
INVALIDITY OF THE '494 PATENT**

93. Plaintiff repeats and incorporates by reference its responses to the allegations contained in Paragraphs 74 through 80 above.

94. Plaintiff admits the allegations of Paragraph 94.

95. Plaintiff denies the allegations of Paragraph 95.

96. To the extent they are allegations and not prayers for relief, Plaintiff denies the allegations of Paragraph 96.

**FIFTH COUNTERCLAIM: DECLARATORY JUDGMENT OF
NON-INFRINGEMENT OF THE '700 PATENT**

97. Plaintiff repeats and incorporates by reference its responses to the allegations contained in Paragraphs 74 through 80 above.

98. Plaintiff admits the allegations of Paragraph 98.

99. Plaintiff denies the allegations of Paragraph 99.

100. To the extent they are allegations and not prayers for relief, Plaintiff denies the allegations of Paragraph 100.

**SIXTH COUNTERCLAIM: DECLARATORY JUDGMENT OF
INVALIDITY OF THE '700 PATENT**

101. Plaintiff repeats and incorporates by reference its responses to the allegations contained in Paragraphs 74 through 80 above.

102. Plaintiff admits the allegations of Paragraph 102.

103. Plaintiff denies the allegations of Paragraph 103.

104. To the extent they are allegations and not prayers for relief, Plaintiff denies the allegations of Paragraph 104.

**SEVENTH COUNTERCLAIM: DECLARATORY JUDGMENT OF
NON-INFRINGEMENT OF THE '472 PATENT**

105. Plaintiff repeats and incorporates by reference its responses to the allegations contained in Paragraphs 74 through 80 above.

106. Plaintiff admits the allegations of Paragraph 106.

107. Plaintiff denies the allegations of Paragraph 107.

108. To the extent they are allegations and not prayers for relief, Plaintiff denies the allegations of Paragraph 108.

**EIGHTH COUNTERCLAIM: DECLARATORY JUDGMENT OF
INVALIDITY OF THE '472 PATENT**

109. Plaintiff repeats and incorporates by reference its responses to the allegations contained in Paragraphs 74 through 80 above.

110. Plaintiff admits the allegations of Paragraph 110.

111. Plaintiff denies the allegations of Paragraph 111.

112. To the extent they are allegations and not prayers for relief, Plaintiff denies the allegations of Paragraph 112.

REQUEST FOR RELIEF

Plaintiff denies that Defendant is entitled to any of the relief it requests.

PLAINTIFF'S PRAYER FOR RELIEF

In addition to the relief requested in Plaintiff's Original Complaint, Plaintiff respectfully requests a judgment against Defendant as follows:

- (a) That Defendant take nothing by its Counterclaims;
- (b) That the Court award Plaintiff its costs and attorneys' fees incurred in defending against these Counterclaims; and
- (c) Any and all further relief for the Plaintiff as the Court may deem just and proper.

Respectfully submitted,

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Counsel for Blue Spike, LLC

CERTIFICATE OF SERVICE

I, Randall T. Garteiser, am the ECF User whose ID and password are being used to file this document. I hereby certify that all counsel of record who are deemed to have consented to electronic service are being served with a copy of this document via the Court's CM/ECF system per Local Rule CV-5(a)(3) on this day. Pursuant to Federal Rule of Civil Procedure 5, this document was served via U.S. Mail and electronic means to counsel for Defendant that are not receiving this document via CM/ECF.

/s/ Randall T. Garteiser

Randall T. Garteiser